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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

11 ARMIN AZOD, an individual; DR.
12 RAMEZ ELGAMMAL, an individual;
13 DR. SHANTANU SHARMA, an
14 individual; DR. DONG ZHANG, an
individual, and PETER JOHN, an
individual,

Petitioners,

v.

11 JAMES G. ROBINSON, an individual;
12 MORGAN CREEK PRODUCTIONS,
13 INC., a Delaware corporation; CECILIA,
14 LLC; a Delaware Limited Liability
Company; GOOD STUFF, LLC; a
Delaware Limited Liability Company,

Respondents.

CASE NO.: 2:22-cv-05214-CAS-MRW
Hon. Christina A. Snyder
**RESPONDENTS' NOTICE OF
MOTION TO DISMISS**

DATE: September 26, 2022
TIME: 10:00 AM PST
COURTROOM: 8D

1 **TO THE COURT, ALL PARTIES, AND THEIR COUNSEL OF RECORD:**

2 PLEASE TAKE NOTICE that on September 26, 2022, at 10:00 a.m. or as soon
3 thereafter as the matter may be heard in Courtroom 8D, of the above-entitled Court,
4 located at 350 W. 1st Street, Los Angeles, CA 90012, Respondents James G.
5 Robinson, Morgan Creek Productions, Inc., Cecilia, LLC, and Good Stuff, LLC
6 (“Respondents”), by and through their counsel of record, Glaser Weil Fink Howard
7 Avchen & Shapiro LLP, will and hereby move this Court for an order to dismiss this
8 proceeding based on the following grounds:

9 1. The doctrine of forum *non conveniens* applies to compel dismissal of this
10 action in favor of a previously pending proceeding in Maryland to vacate the JAMS
11 arbitration award which is the subject of Petitioners’ motion (“Award”). In the
12 underlying arbitration agreement (“Agreement”), Petitioners irrevocably agreed that
13 “any action or proceeding arising from or relating to [that] Agreement may be
14 brought only in the court of Maryland” and further waived “any objection to
15 proceeding in such venue”;

16 2. The doctrine of collateral estoppel applies to compel the dismissal of this
17 action based on Judge John F. Walter’s order entered May 10, 2016, in which he
18 dismissed Petitioners’ action based on the forum selection clause contained in the
19 Agreement;

20 3. There is an absence of federal question jurisdiction supporting this action
21 because The Convention on the Recognition and Enforcement of Foreign Arbitral
22 Awards, also known as the New York Convention, does not apply to an arbitral award
23 that was entered, as here, in the United States, and because the Federal Arbitration
24 Act does not supply an independent basis for federal question jurisdiction; and

25 4. There is an absence of diversity jurisdiction supporting this action because
26 Respondent Morgan Creek Productions, Inc., is a citizen of California, and three of
27 the Petitioners are citizens of California (according to their Motion at 10:25-26).

28 This Motion is made following the conference of counsel pursuant to L.R. 7-3,

1 which took place on August 15, 2022.

2 This Motion is based on this Notice of Motion and Motion to Dismiss, the
3 concurrently filed Memorandum of Points and Authorities in support thereof, the
4 Declaration of Fred Heather and the exhibits filed therewith, the Declaration of James
5 G. Robinson, the complete files and records in this matter, and upon such other oral
6 and/or documentary evidence, if any, that may be presented prior to or at the time of
7 hearing on this matter.

8 Respondents are also concurrently lodging a [Proposed] Order with the Court.

9

10 DATED: August 29, 2022

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12 GLASER WEIL FINK HOWARD
13 AVCHEN & SHAPIRO LLP

14 By: _____
15 FRED D. HEATHER
16 AARON P. ALLAN

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Attorneys for Respondents

Glaser Weil